



## UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO. FILING DATE FIRST NAMED INVENTOR BROCKWAY 06/22/00 09/599,679 **EXAMINER** PM92/0213 HAROLD C KNECHT III P 0 BOX 28338 ART UNIT ST. PAUL MN 55128 The second of the control of the con

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks** 

# Office Action Summary

Application No.
599679

R.S. BROCKWAY

Examiner

Group Art Unit

R.S. BROCKWAY

Group Art Unit

3017

1,10	10,20,72,7
-The MAILING DATE of this communication appears on the co	ver sheet beneath the correspondence address—
Period for Response	2
A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPI MAILING DATE OF THIS COMMUNICATION.	RE 3 MONTH(S) FROM THE
<ul> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no efform the mailing date of this communication.</li> <li>If the period for response specified above is less than thirty (30) days, a response with the period for response is specified above, such period shall, by default, expire SIX Failure to respond within the set or extended period for response will, by statute, causes.</li> </ul>	hin the statutory minimum of thirty (30) days will be considered timely (6) MONTHS from the mailing date of this communication.
Status	
Responsive to communication(s) filed on	
☐ This action is FINAL.	
<ul> <li>Since this application is in condition for allowance except for formal maccordance with the practice under Ex parte Quayle, 1935 C.D. 1 1; 4</li> </ul>	
Disposition of Claims	
√Claim(s) / - 2 3  Of the above claim(s)	is/are pending in the application.
Of the above claim(s)	is/are withdrawn from consideration.
Claim(s)	is/are allowed.
Claim(s) 21-23	is/are rejected.
□ Claim(s)	is/are objected to.
□ Claim(s)	
	requirement.
Application Papers	
☐ See the attached Notice of Draftsperson's Patent Drawing Review, PT	
☐ The proposed drawing correction, filed on is ☐	
☐ The drawing(s) filed on is/are objected to by the	Examiner.
<ul> <li>□ The specification is objected to by the Examiner.</li> <li>□ The oath or declaration is objected to by the Examiner.</li> </ul>	
·	
Priority under 35 U.S.C. § 119 (a)-(d)	
<ul> <li>□ Acknowledgment is made of a claim for foreign priority under 35 U.S.0</li> <li>□ All □ Some* □ None of the CERTIFIED copies of the priority do □ received.</li> <li>□ received in Application No. (Series Code/Serial Number) □ received in this national stage application from the International Bu</li> </ul>	ocuments have been
*Certified copies not received:	•
Attachment(s)	
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s).	
☐ Notice of References Cited, PTO-892	□ Notice of Informal Patent Application, PTO-152
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948	☐ Other
□ Notice of Dialisperson's Faterit Diawing Review, F10-340	L. Julioi

U. S. Patent and Trademark Office PTO-326 (Rev. 3-97)

Part of Paper No.

Art Unit: 3617

#### Reissue Applications

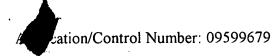
This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

#### Claim Rejections - 35 USC § 112

2. Claims 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 is indefinite because the "compaction cleat" in line 10 is inferentially claimed. Any structure which makes up the invention must be positively claimed. The claimed compaction cleat in line 10 is not positively set forth and therefore it is not clear if the cleat is being claimed as part of the invention, or where the cleat would be disposed on the wheel. Further, it is not clear if this compaction cleat is the same as those set forth in line 6 of the same claim, thereby making it indefinite as to what Applicant is attempting to claim.

In claim 23, the preamble sets forth a compaction machine, yet the claim depends from claim 21 which only claims a compactor wheel. Claim 23 is indefinite because it is not clear



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whether Applicant intends to claim the compactor wheel, the compactor, or the combination of the two subcombinations.

Claims 21-23 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the parent application was filed, had possession of the claimed invention.

If the term "a compaction cleat" in line 10 of claim 21 is interpreted as intended by the statements made in paragraphs 6 and 7 of the Reissue Qath filed September 21, 2000, then the limitation is considered to be new matter because the disclosure of the parent application does not disclose or even suggest that the width of cleat-free area of the rim can be measured against anything other than the cleats 28 which are secured to the wheel rim.

The specification of the originally filed parent applicant makes it clear that the cleat-free area is obtained by removing the inner-most row of cleats 36, or by locating this row farther outward and extending the rim inward. See the last twelve lines of page 10 and all of page 11 of the specification of parent application 08/732901 and/or lines 13-60 of column 6 of the parent patent 5,769,507. Nowhere in the originally filed specification of the parent application is there any suggestion that the cleat-free area can be have at least the width of "any compaction cleat, not just the width of the compaction cleats mounted to the face of the rim" as stated in paragraph 6 of the reissue oath.

cation/Control Number: 09599679

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### Allowable Subject Matter

4. Claims 1-20 are allowable over the prior art of record.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (703) 308-1113.

rds

February 9, 2001

RUSSELL D. STORMER

PRIMARY EXAMINER